

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

PAUL DIXON LEWIS,

Plaintiff,

v.

T. CISNEROS,

Defendant.

Case No.: 1:21-cv-00115-JLT (PC)

**ORDER TO SHOW CAUSE WHY MOTION  
TO PROCEED *IN FORMA PAUPERIS*  
SHOULD NOT BE DENIED**

21-DAY DEADLINE

Plaintiff has filed a motion to proceed *in forma pauperis* in this action. (Doc. 2.) According to the certified account statement submitted by the California Department of Corrections and Rehabilitation, Plaintiff has \$1,050.05 in his inmate trust account. (Doc. 6.) This is more than enough to pay the \$402 filing fee in full. Therefore, Plaintiff must show why he is entitled to proceed *in forma pauperis*.

Proceeding “in forma pauperis is a privilege not a right.” *Smart v. Heinze*, 347 F.2d 114, 116 (9th Cir. 1965). While a party need not be completely destitute to proceed *in forma pauperis*, *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339-40 (1948), “the same even-handed care must be employed to assure that federal funds are not squandered to underwrite, at public expense, either frivolous claims or the remonstrances of a suitor who is financially able, in whole or in material part, to pull his own oar.” *Doe v. Educ. Enrichment Sys.*, No. 15-cv-2628-MMA-MDD, 2015 U.S. Dist. LEXIS 173063, \*2 (S.D. Cal. 2015) (quoting *Temple v. Ellerthorpe*, 586

1 F. Supp. 848, 850 (D.R.I. 1984)). Hence, “the court shall dismiss the case at any time if the court  
2 determines that the [plaintiff’s] allegation of poverty is untrue.” 28 U.S.C. § 1915(e)(2)(A).

3 Plaintiff appears to have adequate funds to pay the filing fee for this action. Accordingly,  
4 the Court ORDERS Plaintiff, **within 21 days** of the date of service of this order, to show cause in  
5 writing why his motion to proceed *in forma pauperis* should not be denied. Alternatively,  
6 Plaintiff may pay the filing fee in full. Failure to respond to this order may result in a  
7 recommendation that this action be dismissed for failure to obey a court order.

8  
9 IT IS SO ORDERED.

10 Dated: **January 30, 2021**

**/s/ Jennifer L. Thurston**  
UNITED STATES MAGISTRATE JUDGE